

**SUPPRESSED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**FILED**

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

TINA L. WHITE, )

Defendant. )

**AUG 21 2013**

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE

Criminal No.

**13-30194-MJR**

Title 18

United States Code,

Section 1349

**INDICTMENT**

**THE GRAND JURY CHARGES:**

**I. Introductory Statement**

1. Between on or about the 15th day of October, 2007, through at least January, 2010, in St. Clair, Madison, Bond, Clark, Calhoun, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Green, Hamilton, Jackson, Jefferson, Johnson, Lawrence, Marion, Monroe, Perry, Pike, Pulaski, Randolph, Richland, Saline, Wabash, Washington and Williamson Counties, within the Southern District of Illinois and elsewhere, **TINA L. WHITE**, Jennifer Kirk, Jeffrey George, Gino Marquez, Peter Massimino and others known and unknown, engaged in a telemarketing timeshare resale scheme that targeted timeshare owners throughout the United States and Canada. They, along with others, falsely represented that there were buyers for consumers' timeshare interests and solicited fees of up to several thousand dollars from each consumer in purported pre-paid closing costs and related expenses. Consumers were

told that they would be refunded the pre-paid fees at the time of closing. The purported sales did not occur, closings were not scheduled as was often represented, and, in fact, neither they nor the companies and business they operated through successfully sold any owner's timeshare interests as promised. None of the businesses devoted substantial resources to marketing consumers' timeshare interests and instead simply pocketed the pre-paid up-front fees they collected from the consumers. Approximately one third of each fee went to the individual telemarketers who sold the timeshare resale services to the consumer, and the balance was kept by the owners of the respective telemarketing company.

## **II. Participants**

2. Universal Marketing Solutions (“UMS”) was the initial name under which the timeshare resale scheme operated. UMS was a registered fictitious name of Hicks, Inc., which was incorporated in 2006 and located in Palm Beach County, Florida. The owners of Hicks, Inc. were Matthew Hicks (now deceased), who was the boyfriend of Jennifer Kirk, and Jennifer Kirk. Hicks was the President and Jennifer Kirk was the Vice President. Hicks, Inc. was dissolved in 2009. Peter Massimino was a telemarketer at UMS as was Gino Marquez..

3. Creative Vacation Solutions (“CVS”) became the business name under which the timeshare resale scheme operated after UMS began losing its credit card merchant accounts. CVS, a Florida Corporation based in Palm Beach County, Florida, was formed in 2008 by S.K., its ostensible owner, the brother of Jennifer Kirk. In fact, the company was owned and operated by Jennifer Kirk. Notably, while each was a separate business entity, both CVS and UMS utilized the same managers, employees and offices. Tina White was a telemarketer at CVS.

4. American Marketing Group (“AMG”) was a telemarketing company which spun off of UMS and CVS. It was begun by Jeffrey George and Gino Marquez, a former telemarketer at UMS. Both **TINA L. WHITE** and Peter Massimino were managers at AMG. AMG used the same business and sales model that UMS and CVS used and the sales pitches were likewise materially identical.

5. UMS, CVS and AMG had several sales offices located in south Florida including offices at West Palm Beach, Belvedere, Boca Raton, Okeechobee, Green Acres and Lake Worth. Some of these offices resembled franchise operations. Specifically, although the individual offices were “owned” and operated by different people, each office used the same business name and sales pitches and collected money through common credit card merchant accounts.

6. **TINA L. WHITE** was a telemarketer who worked for CVS in May, 2009. At CVS, White worked in the office known as Belveder, and later during 2009, she became a manger at AMG.

7. Between October 5, 2007, and approximately January 2010, UMS, CVS and AMG collected approximately \$35 million from approximately 25,500 victims in all fifty states, the District of Columbia, Puerto Rico, all ten Canadian provinces and the Northwest Territory of Canada. UMS, CVS and AMG victimized at least 68 timeshare owners in at least 30 of the 38 counties comprising the Southern District of Illinois.

### **III. The Scheme**

8. Universal Marketing Solutions, Creative Vacation Solutions and American Marketing Group were names under which various conspirators and others operated the timeshare resale scam at various times. All three companies engaged in a telemarketing scam

intended to deceive consumers into believing that these timeshare resale companies had obtained firm and binding offers from purchasers to buy that consumer's timeshare interest.<sup>1</sup> Consumers were told by UMS, CVS and AMG telemarketers that the purported sales of their timeshares would occur only after the consumers paid certain up-front fees that the companies represented would be returned at closing, which never occurred. The telemarketing scam used by all three companies worked nearly identically and is described below.

9. Specifically, a telemarketer referred to as an "opener" would place a cold call to an unwitting timeshare owner from lead lists obtained from list brokers. The opener would ask if the timeshare owner had an interest in selling her timeshare unit. If such an interest was expressed, the opener would transfer the call to another telemarketer referred to as a "closer." The closer was frequently described to the consumer as the "inventory manager." Sometimes, before the call was transferred to the closer, the opener, closer and other telemarketers would discuss the perceived level of the timeshare owner's desperation to sell her timeshare unit. Fees for the illusory services being sold by UMS, CVS and AMG were then raised or lowered accordingly. Once the inventory manager got on the phone with the prospect, he would tell the prospect that UMS, CVS or AMG had one or more "buyers" or "offers" for units in the timeshare resort where the prospect's unit was located. The closer would represent that, only after the customer paid a generous up-front fee of up to several thousand dollars for "closing" and related "expenses," the inventory manager could then "attach" one of the "buyers" or

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<sup>1</sup> As used in this indictment, "timeshare" refers to a type of fractional interest in real estate in which the owner has the right to occupy particular premises for a specified period of time. What constitutes a "timeshare" depends upon the law of the state in which the real estate is located.

“offers” to the customer’s timeshare unit. Telemarketers usually provided a specific closing date, which was typically sixty to ninety days away, and told clients that the up-front fees would be refunded at closing. Once telemarketers processed the up-front fees for the consumer—typically by charging the consumers’ credit cards, they and the companies pocketed the money.

10. In general, the telemarketer made up the closing date given to customers. The made-up closing date needed to be at least 60 to 90 days from the date of the call in order to postpone when customers would call their credit card companies or banks to complain that they had been defrauded, an inevitable result when each and every “closing” date passed without any of the clients receiving the sales proceeds checks they were promised. Delaying that inevitable reporting by the client was important to the success of the scheme, since customer complaints would almost certainly result in chargebacks<sup>1</sup> against the company’s merchant account, thus jeopardizing the ability of the company to process bank card transactions and ultimately get paid.

11. After persuading a consumer to purchase UMS, CVS or AMG services, the telemarketer would then complete an internal sales form with the owner’s information, including information on the owner’s timeshare interest and asking price, and then transfer the file to a “quality assurance” employee. The “quality assurance” employee would then place a telephone call to the consumer and make a recording or “verification” of that part of the call where the consumer gave their oral consent to process a charge to the consumer’s credit card, debit card, or ACH debit on the consumer’s bank account. During the *unrecorded* portion of the call made to CVS customers, many consumers were read the following:

First, I will be discussing with you our marketing practices and how we have gotten the offer on your unit and I’ll also be discussing with you, *that although we*

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<sup>1</sup> A chargeback is a reversal of a prior transfer of funds from a consumer’s credit card.

*do have an offer of \$ \_\_\_\_\_*, we cannot legally attach one specific buyer to your unit until we have your free and clear deed and title as well as your signed contract and seller certification back in house. (Emphasis supplied)

12. This purported “quality assurance” script contained a blank for the telemarketer to insert a dollar amount for the purported “offer” that CVS had supposedly received on that consumer’s timeshare. At UMS, telemarketers would generally first ask the timeshare owners what they had paid for their units and then tell each timeshare owner that their “offer” was roughly twenty five percent higher than what the timeshare owner had paid for it. CVS often filled in the offer amount with the consumer’s *asking price*, which had been written by the telemarketer on the form given to the “quality assurance” employee. After telling the consumer that CVS had received an offer on the consumer’s timeshare at or above the asking price, the “quality assurance” employee turned on the tape recorder and recorded an acknowledgment by the consumer that the bank card number and expiration date, or bank account information and routing code, were correct and that the consumer had agreed to the transaction. Even though consumers were just told that the company had actually received an offer at or above asking price, the recorded part of the script contained an acknowledgment by the consumer that they were merely “authorizing” the company to sell the unit for a particular “sale price,” a highly ambiguous statement that fell short of the representations made just moments earlier.

13. Prior to the recorded part of the “quality assurance” verification, consumers were coached to acknowledge that they had not been told that there was a specific buyer for their timeshare. The consumers were led to believe that, while there were firm offers and, in some cases, multiple buyers for their unit, the company could not “legally attach” the offer or buyer to the property until the company had a signed contract from the client. Only after the contract was

executed and the consumer paid the up-front fees, could the company then “attach” a specific buyer or offer to their timeshare unit. It would, therefore, not have seemed inconsistent for a client to acknowledge during the recording that he had *not* been promised that there was a buyer when in fact that is exactly what he had been promised during the unrecorded conversation. If a client did not follow the script, the call would be terminated, the client re-coached, and a new recording initiated until the client answered the questions in strict conformance with the company script. Thus, when the customer later complained to the Better Business Bureau, regulators, and law enforcement officials that they had been promised a closing, UMS, CVS, and AMG could then retrieve the recording as purported evidence that the company had promised no such thing.

14. After the customer paid the up-front fees by bank card or ACH debit, UMS, CVS or AMG would send the customer a contract to sign. Rather than a contract for the sale of the property as had been promised, the contract instead only obligated the company to provide advertising and marketing services.

15. As UMS, CVS and AMG’s unrecorded sales pitch, “quality assurance” procedures and written contracts were constructed, UMS, CVS and AMG could claim that marketing and advertising was all that UMS, CVS or AMG had ever agreed to provide. Any impression that the consumer formed that UMS, CVS or AMG had a concrete offer for the customer’s unit was therefore a “misunderstanding” on the customer’s part.

16. Despite collecting approximately \$35 million in pre-paid up-front fees from consumers for “timeshare resale services,” UMS, CVS and AMG were not instrumental in selling a single timeshare. While occasionally desperate timeshare owners expressed interest in abandoning their timeshare interest because of recurring annual fees, and Jennifer Kirk



personally would purchase timeshare units at distressed fire-sale prices, there were substantially no sales at or anywhere near the full asking price of the seller. UMS, CVS and AMG made no substantial effort to either market or advertise any customer's timeshare interest other than to place a simple listing on a website for a relatively nominal expense. UMS, CVS and AMG made little effort to promote their websites, and a listing on the websites was of no practical value to its customers.

17. After the promised closing dates came and went without a closing actually taking place, many customers called UMS, CVS or AMG to ask about the status of the expected closing. In general, victims were first told that the offer on the victim's timeshare was firm. In subsequent calls to the companies, the consumers were then given a number of excuses as to why the closing had not occurred, including, among other things, that: (1) the "maintenance and title report" was still in process; (2) the buyers were in the process of getting financing; (3) the buyers were having difficulty getting financing; and (3) the buyers' financing had fallen through. These statements were false and fraudulent in that UMS, CVS and AMG had no buyers, no offers and no interested parties.

18. Telemarketers who were "openers" and "closers" split about a third of whatever fees they could bilk from an individual customer. In some cases, the company would take a percentage of the fee up-front, and the openers and closers would take their respective cuts from the remaining portion. Telemarketers who were very successful at UMS, CVS and AMG were not so because they were particularly good salesmen. Instead, they were successful and made lots of money because they were especially good liars.



19. The established, proven and highly successful sales pitch that was used by UMS, CVS and AMG telemarketers contained material misrepresentations of fact and misleading statements to prospective customers, including the following:

A. UMS, CVS and AMG telemarketers falsely represented that their companies had received an offer on the customer's time share. This claim was sometimes embellished by individual telemarketers to include *multiple* offers on the property. In addition, many consumers were also told that the specific offer that had been received on their property was a "binding" contract, and the purported purchaser "could not back out of it."

B. UMS and CVS agents falsely represented that a closing was scheduled on the consumer's timeshare property oftentimes in just 30 to 90 days.

C. UMS, CVS and AMG agents falsely represented that the pre-paid up-front fees collected from the consumers were for deed and title searches, maintenance profiles, deed preparation, title transfer, and/or similar expenses.

D. When consumers called the companies to complain that no closing had occurred, UMS, CVS and AMG agents falsely represented that they indeed had an offer or buyer for the timeshare property, and then proceeded to give various made-up excuses as to why the closing had not taken place as promised and represented.

20. The representations made in the sales pitches used by UMS, CVS and AMG were false and fraudulent in that the offers on the consumer's property were a fantasy, the closing dates were totally make believe, and the purported purpose of the pre-paid upfront fees was a pure invention by the telemarketer. The fees were not being used for closing costs or other expenses, but were instead being purloined to enrich the telemarketers and their bosses and pay for the continuing expenses associated with the scam. Only a relatively small amount of the fee

collected was going to the cost of listing the property on UMS's, CVS's and AMG's websites, if indeed the consumer's property was even listed there.

21. The sales practices of UMS, CVS and AMG were false and misleading and all were businesses permeated with fraud in an industry pervaded by deceit.

22. Conspirators utilized sales scripts that created an appearance which was false and deceptive and calculated to induce a false belief as to the true facts.

23. In connection with the transactions described in this Indictment, the defendant engaged in a scheme involving deceit and trickery in order to gain an unfair and dishonest advantage over victims located in the Southern District of Illinois and elsewhere throughout the United States and Canada.

#### **IV. Count 1**

#### **Conspiracy 18 U.S.C. § 1349**

24. The previous paragraphs of the indictment are realleged

25. From on or about the 15<sup>th</sup> day of October 2007 and continuing through at least January 2010 in the counties of St. Clair, Madison, Bond, Clark, Calhoun, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Gallatin, Green, Jackson, Jefferson, Johnson, Lawrence, Marion, Monroe, Perry, Pike, Pulaski, Randolph, Richland, Saline, Wabash, Washington and Williamson Counties, within the Southern District of Illinois and elsewhere,

#### **TINA L. WHITE**

defendant herein, together with Jennifer Kirk, various managers of the telemarketing call centers operating under the name Universal Marketing Solutions and Creative Vacation Solutions, and others both known and unknown to the grand jury, did knowingly and willfully combine,

conspire, confederate and agree among themselves and each other to commit certain offenses against the United States as follows:

A. To devise a scheme and artifice to defraud and to obtain money and property by means of false pretenses, representations and promises, and for the purpose of executing the scheme, and attempting so to do, to knowingly cause to be sent and delivered by the United States Postal Service and by commercial interstate carrier, mail matter to and from residents of the United States, including residents of the Southern District of Illinois, to and from the offices of UMS and CVS in the State of Florida, in violation of Title 18, United States Code, Section 1341.

B. To devise a scheme and artifice to defraud and to obtain money and property by means of false pretenses, for the purpose of executing the scheme, and attempting so to do, to knowingly cause to be transmitted by means of wire or radio communication in interstate and foreign commerce, interstate telephone calls, credit card transactions, electronic fund transfers, and signs and signals, to and from the offices of UMS and CVS in the State of Florida, in violation of Title 18, United States Code, Section 1343.

26. In furtherance of and as a foreseeable consequence of the conspiracy, UMS and CVS and its telemarketers caused contracts and other documents to be transmitted by U.S. Mail or by interstate commercial carrier to the Southern District of Illinois.

27. In furtherance of and as a foreseeable consequence of the conspiracy, UMS and CVS and its telemarketers caused interstate telephone calls to be made to the Southern District of Illinois.

All in violation of Title 18, United States Code, Section 1349.

The offense occurred in connection with the conduct of telemarketing, in violation of the SCAMS Act, punishable under Title 18, United States Code, Section 2326(1).

**V - Count II**

**Conspiracy  
18 U.S.C. § 1349**

28. The previous paragraphs of the indictment are realleged.

29. From on or around May 2009 and continuing through at least January 2010, in the counties of St. Clair, Madison, Clinton, Crawford, Jefferson, Marion, Washington, Franklin and Hamilton Counties, within the Southern District of Illinois and elsewhere,

**TINA L. WHITE**

defendant herein, together with Jeffrey George, Peter Massimino, various managers of the telemarketing call centers operating under the name American Marketing Group, and others both known and unknown to the grand jury, did knowingly and willfully combine, conspire, confederate and agree among themselves and each other to commit certain offenses against the United States as follows:

A. To devise a scheme and artifice to defraud and to obtain money and property by means of false pretenses, representations and promises, and for the purpose of executing the scheme, and attempting so to do, to knowingly cause to be sent and delivered by the United States Postal Service and by commercial interstate carrier, mail matter to and from residents of the United States, including residents of the Southern District of Illinois, to and from the office of AMG in the State of Florida, in violation of Title 18, United States Code, Section 1341.

B. To devise a scheme and artifice to defraud and to obtain money and property by means of false pretenses, for the purpose of executing the scheme, and attempting so to do, to knowingly cause to be transmitted by means of wire or radio communication in interstate and foreign commerce, interstate telephone calls, credit card transactions, electronic fund transfers, and signs and signals, to and from the office of AMG in the State of Florida, in violation of Title 18, United States Code, Section 1343.

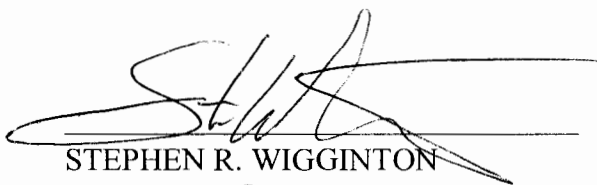
30. In furtherance of and as a foreseeable consequence of the conspiracy, AMG and its telemarketers caused contracts and other documents to be transmitted by U.S. Mail or by interstate commercial carrier to the Southern District of Illinois.

31. In furtherance of and as a foreseeable consequence of the conspiracy, AMG and its telemarketers caused interstate telephone calls to be made to the Southern District of Illinois.

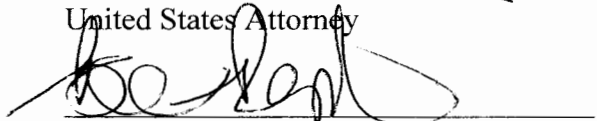
All in violation of Title 18, United States Code, Section 1349.

The offense occurred in connection with the conduct of telemarketing, in violation of the SCAMS Act, punishable under Title 18, United States Code, Section 2326(1).



  
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